

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3660-06
Bill No.: Perfected SCS for SBs 1112 and 854
Subject: Crimes and Punishment; Criminal Procedure; Juries; Merchandising Practices;
 Weapons
Type: Original
Date: April 18, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	More than (\$100,000)	More than (\$100,000)	More than (\$100,000)
Road Fund	(\$500 to Unknown)	(\$500 to Unknown)	(\$500 to Unknown)
Total Estimated Net Effect on <u>All</u> State Funds	(\$100,500 to Unknown)	(\$100,500 to Unknown)	(\$100,500 to Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – State Emergency Management Agency, – Missouri State Water Patrol, – Missouri State Highway Patrol, Missouri Senate, Department of Agriculture,** and the **Missouri House of Representatives** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** declined to respond to this proposal.

Officials from the **Office of Attorney General** assume the costs of the proposed legislation could be absorbed within existing resources.

Officials from the **Office of State Public Defender** assume existing staff could provide representation for those cases arising where indigent persons were charged with agroterrorism, a class D felony; supporting terrorism, a class C felony; terrorist threat, a class C felony; criminal water contamination, a class B felony; hazardous materials transportation without prior approval; criminal wire communication interceptions, or traveling closed Missouri waterways. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

Officials from the **Office of Secretary of State (SOS)** assume this bill creates the Joint Committee on Terrorism, Bioterrorism, and Homeland Security and implements provisions related to terrorism. The State Courts Administrator may promulgate rules to implement this bill. Based on experience with other divisions, the rules, regulations, and forms issued by the State Courts Administrator could require as many as 44 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the Code because cost statements, fiscal notes, and the like are not repeated in Code. The estimated cost of a page in the *Missouri Register* is \$23.00 and the estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn. Based on these costs, the estimated cost of the proposal is \$2,706 in FY 03 and unknown in subsequent years.

ASSUMPTION (continued)

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which would require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Department of Natural Resources (DNR)** assume that if there was an environmental emergency requiring the DNR's Environmental Emergency Response staff to respond on any waters of the state closed by the Water Patrol, they would be given access to the emergency.

There is a federal law addressing the contamination of a water source, but there is no corresponding state statute. The DNR's authority is not changed by this provision. Therefore, the DNR will not be impacted by this legislation.

Officials from the **Department of Corrections (DOC)** assume they cannot predict the number of new commitments which may result from the various creations of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY01 average of \$35.78 per inmate per day, or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY01 average of \$3.34 per offender per day, or an annual cost of \$1,219 per offender). Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually.

The DOC is unable to determine the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, supervision by the DOC through incarceration or probation would result in additional costs and although the exact fiscal impact is unknown due to the cumulative effect of this bill, it is estimated that potential costs will be in excess of \$100,000 per year.

ASSUMPTION (continued)

Officials from the **Department of Transportation (MoDOT)** assume the legislation prohibits the transport of hazardous materials in or through any tunnel in Missouri or parking vehicles containing hazardous materials within three hundred feet of any tunnel in Missouri.

The Manual on Uniform Traffic Control Devices (MUTCD) has a standard sign to be used when hazardous cargo is prohibited. The sign would be 2 feet by 2 feet in size and mounted on a wood post. The estimated cost to install one sign would be \$250. Two signs would be installed, one on each side of the tunnel, for a total cost of \$500.

Signing for other routes where hazardous cargo is prohibited can not be estimated since there are no routes currently designated.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
GENERAL REVENUE FUND			
<u>Costs – Department of Corrections Incarceration/Probation costs</u>	More than <u>(\$100,000)</u>	More than <u>(\$100,000)</u>	More than <u>(\$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	More than <u>(\$100,000)</u>	More than <u>(\$100,000)</u>	More than <u>(\$100,000)</u>
ROAD FUND			
<u>Costs – Department of Transportation Hazard Cargo Signs</u>	(\$500 to <u>Unknown)</u>	(\$500 to <u>Unknown)</u>	(\$500 to <u>Unknown)</u>
ESTIMATED NET EFFECT ON ROAD FUND	(\$500 to <u>Unknown)</u>	(\$500 to <u>Unknown)</u>	(\$500 to <u>Unknown)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

The proposed legislation contains provisions relating to terrorism:

The proposal would create the Joint Committee on Terrorism, Bioterrorism and Homeland Security. The Joint Committee would consist of seven members each from the House and Senate. The proposal details the duties of the Committee. The Joint Committee would expire on December 31, 2007. (Section 38.050)

The proposal would allow the Emergency Management Agency to activate the State Emergency Volunteer Program in the event of a disaster. Current language required an "earthquake or other natural disaster" to occur before this program could be activated. (Section 44.023)

It would be a class B misdemeanor to transport hazardous materials in or through any highway tunnel or park a vehicle containing hazardous materials within three hundred feet of a highway tunnel in the state. Second or subsequent offenses would be a class A misdemeanor. (Section 304.307)

The Missouri State Water Patrol would have the authority to close waterways in the event of any actual or imminent man-made or natural disaster. (Section 306.124)

Transporting hazardous materials in a vehicle that is not equipped and operated in accordance with the U.S. Department of Transportation's safety and hazardous materials regulations would be a class A misdemeanor. (Section 307.177)

The proposal would revise the wiretapping provisions to allow prosecutors to apply for an order authorizing a wiretap in a situation related to terrorism. (Sections 542.400-542.422)

The proposal would create the crime of criminal water contamination, a class B felony. Criminal water contamination would occur if a person knowingly introduces any dangerous agent or substance into any public or private waters of the state or any water supply with the purpose of causing death or serious injury. (Section 569.072)

Stealing any amount of ammonium nitrate would be a class C felony. (Section 570.030)

DESCRIPTION (continued)

The list of class C felony offenses would be expanded to include an explosive, incendiary or poison substance or material with the purpose to possess, manufacture, or sell an explosive weapon. (Section 571.020)

Money laundering would include conducting or attempting to conduct a currency transaction with the purpose of promoting or aiding the carrying on of a criminal activity for the purpose of furthering or making a terrorist threat or act. (Section 574.105)

A terrorist threat would be made if a person communicates a threat to “cause an incident or condition involving a danger to life” which disturbs ten or more people and for the purpose of creating an evacuation. This would be treated as a class C felony, unless an evacuation of a building is caused by a reckless disregard, then it would become a class D felony. Criminal negligence has been added for a standard and an offense would carry a class A misdemeanor penalty. (Section 574.115)

Making a false report would be enhanced to include an event is about to occur. (Section 575.080)

The proposal would create the class C felony of supporting terrorism if a person knowingly provides or solicits material support for any organization designated as a foreign terrorist organization pursuant to 8 U.S.C. 1189. (Section 576.080)

Agroterrorism would be committed if a person purposely spreads any type of disease among crops, livestock and poultry. This would be a class D felony, unless damage exceeds ten million dollars, then it would become a class B felony. There would be an exemption for scientific research. (Section 578.008)

The proposal would add an exemption to the Sunshine Law, allowing closure of meetings and records regarding specific information on certain terrorism readiness issues. However, information regarding total costs of security measures would not be considered closed. (Section 610.021)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety
– State Emergency Management Agency
– Missouri State Water Patrol
– Missouri State Highway Patrol
Missouri House of Representatives
Missouri Senate
Office of Prosecution Services
Office of Attorney General
Office of State Public Defender
Office of Secretary of State
Office of State Courts Administrator
Department of Natural Resources
Department of Corrections
Department of Transportation
Department of Agriculture



Mickey Wilson, CPA
Acting Director

April 18, 2002